

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PORFIRIO GATON,)
Petitioner,) Civil Action No. 04-40157-DPW
v.)
DAVID L. WINN,)
Respondent.)

RESPONDENT'S MOTION TO DISMISS

Respondent, David L. Winn, moves to dismiss the Petition For Writ of Habeas Corpus.

In support of this Motion, the Respondent submits the accompanying Memorandum of Law in Support of the Motion to Dismiss.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Damian W. Wilmot
DAMIAN W. WILMOT
Assistant U.S. Attorney
John Joseph Moakley U. S. Courthouse
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Dated: September 22, 2004

CERTIFICATION UNDER L.R. 7.1

Because Petitioner is a prisoner currently incarcerated in a federal correctional facility, counsel for the United States respectfully requests leave to file this Motion without a 7.1 conference.

/s/ Damian W. Wilmot
DAMIAN W. WILMOT
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document were served upon Petitioner Porfirio Gaton, Reg. No. 10756-052, FMC Devens Camp, P.O. Box 879, Ayer, MA 01432 by first class, postage prepaid mail on September 22, 2004.

/s/ Damian W. Wilmot
Damian W. Wilmot